

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JESUS LUIS DIAZ,

Plaintiff,

-against-

NORTHPORT VA MEDICAL CENTER,
ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Defendants.
-----X

ORDER

11-CV-4254 (SJF) (ARL)

FILED

IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y



AUG 06 2013



LONG ISLAND OFFICE

FEUERSTEIN, J.

Presently before the Court is the Report and Recommendation of Magistrate Judge Arlene R. Lindsay dated June 18, 2013 recommending that defendants' motion to vacate the entry of default against the Northport VA Medical Center and dismiss the amended complaint be granted to the extent that defendants seek to vacate the entry of default and denied to the extent that defendants seek to dismiss the amended complaint. [Docket Entry No. 20] (the "Report"). No objections to the Report have been filed. For the following reasons, the Court adopts Magistrate Judge Lindsay's Report in its entirety.

I. Standard of Review

Any portion of a report and recommendation on dispositive matters to which a timely objection has been made is reviewed by the district court de novo. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). However, the district court is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter as to which no timely objection has been made, the

district judge need only be satisfied that there is no clear error on the face of the record. See FED. R. CIV. P. 72(b); Baptichon v. Nevada State Bank, 304 F. Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 F. App'x. 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b).

II. Discussion

No objections to Magistrate Judge Lindsay's Report have been filed. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Lindsay's Report in its entirety. Defendants' motion is granted insofar as the entry of default against the Northport VA Medical Center is vacated and is otherwise denied.

In accordance with Rule 77(d) of the Federal Rules of Civil Procedure, the Clerk of Court shall serve a copy of this order upon all parties, including by mailing a copy of this order to the pro se plaintiff, and record such service on the docket.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: August 6, 2013
Central Islip, New York